

Message Text

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ACTION EUR-25

INFO OCT-01 EA-11 ISO-00 AID-20 CEA-02 CIAE-00 COME-00

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FM USMISSION OECD PARIS

TO SECSTATE WASHDC 1399

AMEMBASSY TOKYO

INFO AMEMBASSY BONN

AMEMBASSY LONDON

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E.O.: 11562: N/A

TAGS: EFIN, OECD

SUBJ: LIBERALIZATION OF INWARD DIRECT AND PORTFOLIO INVESTMENT
BY JAPAN

REF: (A) OECD PARIS 31973

(B) DAF/INV/73.47

2. SUMMARY. INVISIBLES COMMITTEE (IC) AT ITS MEETING DEC 5-7
(SEE REF A) REVIEWED JAPANESE REGULATIONS ON INWARD DIRECT AND
PORTFOLIO INVESTMENT AND WILL TRANSMIT REF B TO COUNCIL WITH
MINOR CHANGES. ACTION REQUESTED. EMBASSY TOKYO RESPONSE TO
PARA R BELOW. END SUMMARY.

2. IC WELCOMED JAPANESE LIBERALIZATION OF REGULATIONS APPLYING TO
DIRECT INVESTMENT BY NON-RESIDENTS (LIST A, I/A) AND TO PURCHASES
OF QUOTED AND NON-QUOTED SHARES BY NON-RESIDENTS (LIST A,
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IV/A1(A AND LIST B, IV/A3(A). HOWEVER, IC FELT THAT GENERAL COM-

PLEXITY THESE REGULATIONS WAS UNFORTUNATE AND HOPED THAT JAPANESE AUTHORITIES COULD ATTEMPT TO SIMPLIFY REGULATIONS AND FORMALITIES IN LINE WITH ARTICLE 5 OF CM. JAPANESE EXPERT INDICATED HIS AUTHORITIES WELL AWARE THIS PROBLEM AND WERE ALREADY LOOKING FOR WAYS TO FURTHER SIMPLIFY REGULATIONS.

3. IC VERIFIED WITH JAPANESE EXPERT THAT FOREIGNERS CANNOT MAKE DIRECT INVESTMENTS (I.E., OVER 25 PERCENT OF PARTICIPATING SHARES) IN EXISTING ENTERPRISES IN ANY OF INDUSTRIES INDICATED IN FOOTNOTES A, B OR C OF REF B. THEY CAN, HOWEVER, ESTABLISH NEW ENTERPRISES IN SOME OF FOOTNOTED INDUSTRIES UP TO A MAXIMUM OF 50 PERCENT PARTICIPATING. THEY CAN ALSO INVEST IN NEW OR EXISTING ENTERPRISES NOT INCLUDED IN FOOTNOTES, AS LONG AS EXISTING ENTERPRISES GIVE THEIR CONSENT TO FOREIGN PARTICIPATION. WITH REGARD TO PORTFOLIO INVESTMENT (LIST A, IV/A1(A)), NO SINGLE FOREIGN INVESTOR CAN HOLD MORE THAN 10 PERCENT OF SHARES IN FOOTNOTE A ENTERPRISES, NO CAN TOTAL PARTICIPATION BY ALL FOREIGN INVESTORS EXCEED 25 PERCENT (15 PERCENT FOR MINING AND FISHERIES). SIMILAR MAXIMUM PERCENTAGES APPLY TO FOOTNOTE C INDUSTRIES UNTIL INDICATED DATE OF FULL LIBERALIZATION. INVESTMENTS IN PUBLIC UTILITIES ARE LIMITED TO MAXIMUM 10 PERCENT FOR SINGLE INVESTORS AND 25 PERCENT FOR ALL INVESTORS, UNLESS ENTERPRISE ITSELF GIVES CONSENT TO HIGHER PARTICIPATION (UP TO 100 PERCENT). INVESTMENTS IN OTHER INDUSTRIES, AND IN FOOTNOTE C ENTERPRISES AFTER FULL LIBERALIZATION, ARE SIMILARLY RESTRICTED TO 10 PERCENT AND 25 PERCENT UNLESS ENTERPRISE GIVES PRIOR CONSENT TO BANK OF JAPAN.

4. IT STILL REMAINS UNCLEAR WHETHER PRIOR CONSENT MUST BE GIVEN TO EACH INDIVIDUAL PORTFOLIO TRANSACTION AFTER FIRM HAS NOTIFIED BANK OF JAPAN OF ITS GENERAL CONSENT TO INCREASE FOREIGN PARTICIPATION ABOVE 25 PERCENT. THUS, JAPANESE FIRM MIGHT APPROVE INCREASES TO 50 PERCENT, BUT NOT CLEAR IF WOULD HAVE TO APPROVE EACH INDIVIDUAL PURCHASE FROM 26 PERCENT LEVEL TO 50 PERCENT LEVEL. ALSO UNCLEAR IF CONSENT IS GENERAL OR INDIVIDUAL WHEN APPLIED TO DIRECT INVESTMENTS. (FYI: MISSION ASSUMES DIRECT INVESTMENT APPLICATIONS ARE SUBJECT TO INDIVIDUAL APPROVAL BY JAPANESE ENTERPRISE CONCERNED, WHILE PORTFOLIO INVESTMENTS ARE COVERED BY GENERAL APPROVAL. WOULD APPRECIATE VERIFICATION FROM EMBASSY TOKYO. BROWN

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